

REMARKS

I. Introduction

Claims 6 and 8-15 are currently pending in the present application after the addition of claims 13-15. Claims 9, 10 and 12 have been withdrawn from further consideration. In view of the foregoing amendments and the following remarks, it is respectfully submitted that pending claims 6, 8, 11 and 13-15 under consideration are in condition for allowance.

II. Rejection of Claim 6 under 35 U.S.C. § 112, Second Paragraph

Claim 6 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite, i.e., the Examiner contends that the limitation “enables an output stage independently of the processor” is allegedly ambiguous. While Applicants do not agree with the rejection, in order to expedite prosecution, claim 6 has been rewritten to clarify that the enabling refers to **enabling the output stage to be actuated by the processor**. No new matter has been added, and claim 6, as presented, is supported by the Substitute Specification. Withdrawal of this rejection is therefore respectfully requested.

III. Rejection of Claim 6 under 35 U.S.C. § 102(b)

Claim 6 was rejected under 35 U.S.C. § 102(b) as unpatentable over U.S. Patent No. 5,083,276 (the “Okano ’276 reference”). Applicants respectfully submit that claim 6 is allowable, for the following reasons.

In order to reject a claim under 35 U.S.C. § 102(b), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See Scripps Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)). To the extent that the Examiner may be relying on the doctrine of inherent disclosure, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain

result or characteristic may occur in the prior art does not establish the inherence of that result or characteristic.

As amended, claim 6 recites, in relevant parts, “**an electronic safety switch that, as a function of a signal of an acceleration sensor system, enables an output stage to be actuated by the processor, the enabling occurring independently of the processor, the processor actuating the output stage as a function of the signal, wherein the safety switch analyzes an integrated acceleration signal as the signal of the acceleration sensor system, wherein the acceleration sensor system includes an integrator for outputting the integrated acceleration signal, the integrator configured to generate the integrated acceleration signal independently of the processor.”**

Okano ‘276 describes a pair of integrating circuits 40 that are **directly controlled by a microcomputer 24**. This is shown in Figure 1 by the control lines that connect the microcomputer outputs O_C and O_D to the integrating circuits 40. The outputs O_C and O_D are used to initiate integration (col. 5, lines 2 to 17). Therefore, Okano ‘276 does not disclose **an integrator configured to generate the integrated acceleration signal independently of the processor**.

In addition to the above, because the integrating circuits 40 of Okano ‘276 are controlled by the microcomputer 24, the signals output from the integrating circuits 40 to the comparators 50 are a function of the microcomputer outputs O_C and O_D. The comparators 50 **depend on** the microcomputer 24 for controlling the receipt of input. Therefore, the comparators 50 do not enable an output stage to be actuated by the processor, wherein the **enabling occurs independently of the processor**.

For at least the foregoing reasons, Applicants submit that claim 6 is clearly allowable over Okano ‘276.

IV. Rejection of Claims 8 and 11 under 35 U.S.C. § 103(a)

Claim 8 was rejected under 35 U.S.C. § 103(a) as unpatentable over the Okano ‘276 reference in view of U.S. Patent No. 5,431,441 (the “Okano ‘441 reference”). Claim 11 was

rejected under 35 U.S.C. § 103(a) as unpatentable over the Okano '276 reference, in view of U.S. Patent No. 5,351,185 (the "Takeuchi reference"). Applicants respectfully submit that these rejections should be withdrawn for at least the following reasons.

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103(a), the prior art must teach or suggest each element of the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990). To establish a *prima facie* case of obviousness, the Examiner must show, *inter alia*, that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, and that, when so modified or combined, the prior art teaches or suggests all of the claim limitations. M.P.E.P. §2143. In addition, as clearly indicated by the Supreme Court, it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed. See KSR Int'l Co. v. Teleflex, Inc., 127 S. Ct. 1727 (2007).

Claims 8 and 11 depend from independent claim 6. As noted above, claim 6 is not anticipated by the Okano '276 reference. In addition, the Okano '441 and Takeuchi references fail to remedy the deficiencies of the Okano '276 reference as applied against parent claim 6. Therefore, the combination of the Okano '276 and Okano '441 references does not render obvious claim 6 or its dependent claim 8. Further, the combination of the Okano '276 and Takeuchi references does not render obvious claim 6 or its dependent claim 11.

It is therefore respectfully requested that the obviousness rejections of claims 8 and 11 be withdrawn.

V. New Claims 13-15

New claims 13-15 do not add any new matter and are supported by the present application, including the specification. Claims 13-15 ultimately depend on claim 6 and are therefore allowable for the same reasons. Additionally, claims 13-15 include further features,

which are simply not disclosed nor suggested by the applied references, and are therefore allowable for these further reasons.

VI. Conclusion

Applicants respectfully submit that claims 6, 8, 11 and 13-15 of the present application under consideration are now in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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